

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on February 10, 2006, and the references cited therewith.

Claims 1, 33, 37 and 42 are amended, and no claims are canceled or added; as a result, claim 1-46 are now pending in this application.

#### **§ 112 Rejection of the Claims**

Claims 1 and 33 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant notes that independent claim 33, and claims dependent therefrom, has been treated on the merits, unlike independent claim 1 and claims dependent therefrom. Applicant thus infers that independent claim 33 has not been rejected based upon 112 indefiniteness. Applicant has amended independent claim 1 using the phrasing of independent claim 33 as an example. That is, “scanning an electronic image of an item” with “into memory storage” appearing at the end of the element currently is recited as the continuous phrase. Thus, claim 1, as amended, now recites “scanning an electronic image of an item into memory storage”.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 112 rejection of independent claim 1, as well as those claims that depend therefrom.

#### **§ 102 Rejection of the Claims**

Claims 33-35, 38, 39, 42-44 and 46 were rejected under 35 USC § 102(e) as being anticipated by Neushul (U.S. Patent No. 6,208,437). Applicant respectfully traverses the rejection as follows.

Applicant does not admit that the Neuschul reference is indeed prior art and reserves the right to swear behind at a later date. Nonetheless, Applicant believes the present application can be distinguished from the Neuschul reference for at least the following reasons.

With regard to independent claim 33, as amended, the Neuschul reference appears to describe in column 2, lines 9-14:

Light from light source 3 shines through film mounted on transport 2, bounces off mirror 4 and is focused by lens 5 on CCD camera 6.  
Alternatively, if light source were placed within the case, light would bounce off reflective media, onto mirror 4 and focused as before.

The reference does not show supporting an item to be scanned, generally upright in a frame, retaining the item within the frame for display and scanning, moving a image scanning bar over said item, and scanning an electronic image of the item into memory storage.

In contrast, independent claim 33, as amended, recites:

supporting said item to be scanned, generally upright in a frame; retaining said item within said frame for display and scanning;  
moving a image scanning bar over said item; and  
scanning an electronic image of said item into memory storage.

In addition, independent claim 42, as amended, recites:

means for supporting, generally upright, an item to be scanned and displayed;  
means for moving an image scanning bar over said item; and  
means for scanning said item into memory storage.

As such, Applicant respectfully submits that each and every element and limitation of independent claims 33 and 42, as amended, is not present in the Neuschul reference. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 102 rejection of independent claims 33 and 42, as well as those claims that depend therefrom.

#### §103 Rejection of the Claims

Claim 40 was rejected under 35 USC § 103(a) as being unpatentable over Neushul (U.S. Patent No. 6,208,437) and further in view of Takeuchi (U.S. Patent No. 6,057,944). Applicant respectfully traverses the rejection as follows.

Claim 40 depends from independent claim 33. Applicant respectfully submits that independent claim 33, as amended, is in condition for allowance. From Applicant's review of the Takeuchi reference, the reference does not cure the

deficiencies of the Neuschul reference. That is, Takeuchi does not describe, teach, or suggest “moving a image scanning bar over said item”, as recited in independent claim 33, as amended.

As such, Applicant respectfully submits that the Takeuchi and Neuschul references do not describe, teach, or suggest, either individually or in combination, each and every element of independent claim 33, as amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of dependent claim 40.

Claim 41 was rejected under 35 USC § 103(a) as being unpatentable over Neushul (U.S. Patent No. 6,208,437) and further in view of Krist et al (U.S. Patent No. 5,615,015). Applicant respectfully traverses the rejection as follows.

Claim 41 depends from independent claim 33. Applicant respectfully submits that independent claim 33, as amended, is in condition for allowance. From Applicant’s review of the Krist reference, the reference does not cure the deficiencies of the Neuschul reference. That is, Krist does not describe, teach, or suggest “moving a image scanning bar over said item”, as recited in independent claim 33, as amended.

As such, Applicant respectfully submits that the Krist and Neuschul references do not describe, teach, or suggest, either individually or in combination, each and every element of independent claim 33, as amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of dependent claim 41.

#### Allowable Subject Matter

Claims 36, 37, and 45 were objected to as being dependent upon a rejected base claims, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant notes that independent claim 33 would be allowable if the elements of dependent claim 37 were to be incorporated. As such, Applicant has amended independent claim 33 to incorporate subject matter indicated to be allowable in connection with dependent claim 37. Specifically, Applicant has

amended independent claim 33 to include “moving a image scanning bar over said item” from dependent claim 37. Accordingly, Applicant respectfully submits that independent claim 33, as amended, is in condition for allowance, as well as those claims that depend therefrom.

In addition, Applicant has amended independent claim 42 to include “means for moving an image scanning bar over said item”. Accordingly, for at least the reasons provided above, Applicant respectfully submits that independent claim 42, as amended, is in condition for allowance, as well as those claims that depend therefrom.

### **CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Gregg W. Wisdom at (360) 212-8052 to facilitate prosecution of this matter.

At any time during the pendency of this application, please charge any additional fees or credit overpayment to the Deposit Account No. 08-2025.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS AMENDMENT** Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 3<sup>rd</sup> day of May, 2006.

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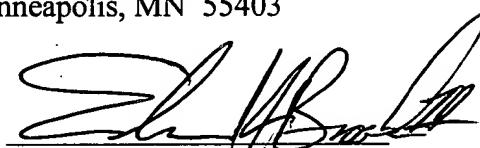
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Respectfully Submitted,  
Modest Khovaylo, et al.

By their Representatives,  
**BROOKS & CAMERON, PLLC**  
1221 Nicollet Avenue, Suite 500  
Minneapolis, MN 55403

By:



Edward J. Brooks III  
Reg. No. 40,925

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